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RECEIVED  
OREGON OPERATIONS OFFICE

SEP 06 2016

EPA-REGION 10

September 6, 2016

Environmental Protection Agency, Region 10  
Attention: Harbor Comments  
U.S. EPA  
805 SW Broadway, Suite 500  
Portland, OR 97205

Via Email: [harborcomments@epa.gov](mailto:harborcomments@epa.gov)

Re: Comments of Northwest Pipe Company on EPA's Portland Harbor Superfund Proposed Plan for Cleanup

Northwest Pipe Company (NWP) has a steel pipe manufacturing facility located within a portion of what had been a 1940-s World War II shipbuilding facility. The shipbuilding facility was operated by the Oregon Shipbuilding Company, which assembled more than 450 ships for the United States and employed more than 30,000 people while it was in operation. From 1950-1982, Beall Pipe and LB Foster operated in the assembly area of the former Oregon Shipbuilding facility. Northwest Pipe Company started operations at this location in 1982, and continues to operate. Northwest Pipe has typically employed about 100 people at any one time during its operational history; less than 10% of the number of employees during the Oregon Shipbuilding days from the late 1950's to the early 1980's.

Northwest Pipe's site does not border on any waterbody.

Northwest Pipe submits these comments because the Proposed Plan fails to consider several topics affecting entities within the Portland Harbor. One of the significant uses of the EPA's Proposed Plan, the comments on the Proposed Plan and the resulting Record of Decision (ROD), is to serve as a basis for allocating liability among Potentially Responsible Parties ("PRPs"). The EPA's Proposed Plan fails to provide sufficient information and a workable basis for this important function.

1. Incomplete Background -- Involvement of the United States during World War II. EPA misleads the public and decision-makers by not following EPA guidance in providing adequate site history affecting certain areas within the Portland Harbor Superfund site. In preparing Proposed Plans and Records of Decision, EPA is required to provide a brief history of sources of contamination. (EPA OSWER 9200.1-23P July 1999 §3.3.2). The Proposed Plan does not even

mention the US Government's wartime activities, therefore does not provide a representative history of the site. For example:

- a. At the Zidell Site, just upstream from the Portland Harbor Superfund site, the United States contracted with an existing Zidell facility to make barges during WWII; later ship-breaking occurred at the site. When it came time to clean up the Zidell site, the United States accepted 35% of the cleanup liability. (*ZRZ Realty Co. v. United States of America*, US Dist Ct for Oregon No CV97-1418-HU – Settlement Agreement and Consent Order, paragraph 12 (2001)).
- b. Also within the PHS site, at Swan Island (River Mile 8.1-9.9), 147 tankers were built for the United States during the WWII era.  
(<http://www.shipbuildinghistory.com/history/shipyards/4emergencylarge/wwwtwo/kswanisland.htm> accessed 7/11/2016). Another 6 tankers were converted at Swan Island. In addition, ship repairs were undertaken at Swan Island.
- c. Also within the PHS site, during the WWII era, 468 ships (Liberty and Victory types) were built for the United States at the Oregon Shipbuilding site (RM 3.9) by more than 30,000 people (Osborn, *Oregonship* p. 11 [Oregon Historical Society])  
<http://www.shipbuildinghistory.com/history/shipyards/4emergencylarge/wwwtwo/koregon.htm> accessed 7/11/2016).

The shipbuilding activity in the Portland Harbor during WW II was unprecedented and that level of industrial activity has not been repeated since. As the Proposed Plan is written today, it is misleading to the public, as to the significant parties and sources of the pollutants within the Portland Harbor. Therefore, the ROD needs to amplify the history sufficiently to point out both public and private involvement and responsibility for the contaminants present at various locations within the Portland Harbor Superfund site. The public involvement at these and other shipyard sites in the Portland Harbor during WWII dwarfs later private activity, and the Proposed Plan should more clearly reflect the contributions of WW II activities at these sites to the contaminants found in the Portland Harbor.

2. Lack of Manageable Operable Units. It is conceded by all concerned, that the Portland Harbor is a very complex Superfund site. Under 40 CFR §300.430(a)(ii) *Program management principles*. "EPA generally shall consider the following general principles of program management during the remedial process:

...(B) Operable units, including interim action operable units, *should not be inconsistent with nor preclude implementation of the expected final remedy.*" (emphasis added)

Instead of providing for Sediment Management Areas (SMAs), which were discussed with EPA and made available in draft form, EPA's Proposed Plan has tendered mile by mile "Sediment Decision Units (SDUs)." The SMAs that have been discussed, and made available to the EPA in draft form, provide logical, pollutant-based sub-divisions of the site for remediation. However, the Proposed Plan's SDU's inappropriately blend chemicals of concern, principal threat waste areas, and areas where no or limited contamination is found in such a manner that the scores of





# Northwest Pipe Company

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entities and persons who may have been owners or operators of these sites will not be able to sort out their relative potential responsibilities, making the allocation efforts impossible. The ROD needs to specify the quantities of technology assignments within each SDU (or SMA) determined to be appropriate for this complex site and the portion of the remedial action costs attributable to each. The Proposed Plan, Feasibility Study and ROD are supposed to provide sufficient analysis to allow individual PRPs to assess potential liability without requiring additional cost breakouts. Specifically EPA needs to provide in the ROD, the following cost breakouts for each design technology between Sediment Decision Units and within each Sediment Decision Unit:

**SMA:** Cost per SMA (or SDU)

**River Banks:** Overall Cost and Cost by running foot

**Under Dock Cleanups:** Overall Cost and per running foot

**FMD:** Future Maintenance Dredging FMD (by cu yd or square foot)

**Dredging:** Overall and by Cubic Yard

**Transportation of dredges spoils:** overall and by Cubic Yard

**CDF:** Disposal overall and by Cubic Yard

**Offsite disposal:** overall and by Cubic Yard

**Reactive Capping:** overall and by square foot

**Monitored Natural Recovery:** by acre over time discounted to present value

3. Failure to Use Most Current Data. EPA's proposed plan relies on data that is several years old. It is not the most recent available data with regard to fish tissue and natural recovery, to name only two data sets. Additional data (provided 2012) concerning fish tissue, carefully collected to match existing data, was made available to EPA but was not accepted for purposes of the Feasibility Study or the Proposed Plan. We know of no legal or technical reason that prohibited EPA from accepting this data and incorporating it into the Proposed Plan or ROD. If the EPA has more current data available, it should consider that more current data for the ROD.

The ROD should reflect the most currently available data which shows the downward trending of pollutants and exposures due to natural attenuation should be reflected in the ROD. The ROD should reflect a reduced number of acres subject to remediation, increased number of acres subject to MNR (Monitored Natural Recovery) and otherwise adjusting the final remedy to fit the most currently available data. Northwest Pipe believes it and the public are not well served if the EPA ignores the data that is currently available.

4. Inflection points. EPA has proposed an unexamined combination of previously suggested remedies and this combination has numerous flaws. First, the proposed remedy provides almost no advantage, in terms of effects on human health and ecology, over less costly alternatives with quicker completion dates. Second, the 7% discount rate not only is markedly out of line with current financial conditions, it is inconsistent with the discount rates used in sediment cleanup sites elsewhere in EPA Region 10. For example, EPA Region 10's Proposed Plan of 2013 for the Duwamish Waterway Superfund cleanup used a 2.3% discount rate. Third,





the Preliminary Remediation Goals (PRGs) and Remedial Action Levels (RALs) are inconsistent with other sites across the nation thus overburdening Portland tax and ratepayers, as well as placing Portland businesses and public agencies with cleanup responsibilities at a competitive disadvantage.

5. Misapplication of "standardized procedures." The EPA has applied requirements that the public be provided fishing access or other public access standardized across the entire PHS site. However, the International Terminals Slip (ITS) was created by dredging the upland area to service the outfitting and ship launching of WWII Liberty and Victory ships. The ITS has hydrologic, bathymetry, scour/erosion, and sedimentation characteristics that are very unique and specific to itself. It is unlike the characteristics of the main stem of the Willamette River. Yet the EPA applies the same river characteristics and standards to this artificial creation, as it does to the natural main stem of the river. Currently there is no upland access by the public to the banks of the ITS. As the bed and banks of the ITS are privately owned, there is no inherent right to public access and it is possible to exclude the public from this area, *see Kaiser Aetna v. United States*, 444 U.S. 164 (1979). The affected PRPs should not be required to provide fishing access or other public access or scour this depositional, private slip to meet zealously applied Remedial Action Levels without a prior condemnation action.

6. EPA Improper Exercise of Authority. The Proposed Plan is a precursor to issuance of the ROD, which in turn will serve as the basis for settlement. Settlements with EPA will consider whether DEQ has approved upland source control determinations made by DEQ. EPA and DEQ have an intergovernmental Memorandum of Understanding (MOU) dividing the authority between in-water work and upland source control. Even though DEQ has authority concerning upland source control and at one time or another has indicated acceptance of several sites as having upland source control, EPA has arbitrarily exercised its authority by insisting that DEQ compel operators at some of these sites perform additional groundwater studies, which the operators, their consultants and DEQ all determined were unnecessary. The result is that even after a decade of work and hundreds of thousands of dollars have been spent on meeting standards to show upland source control, this status has not been granted for these sites. The final version of EPA's 2016 Feasibility Study accepts DEQ's determination that no groundwater plumes are found on these sites. For example, the EPA nonetheless insists on additional groundwater studies by Northwest Pipe when no plume-pathway to the river is shown on Figure 4.2-18. EPA has an obligation to resolve these issues with DEQ and should therefore support DEQ's grant of an upland source control determination.

7. EPA's failure to identify all significant PRPs. On page 5 of the Proposed Plan, EPA claims that it has "conducted an extensive search for potentially responsible parties," resulting in the identification of 150 parties. Notwithstanding numerous submissions directly and through others to EPA, EPA has failed and refused to issue GNLs to all possible significant PRPs. One such example is the failure of EPA to issue a GNL to publicly traded L.B. Foster Co., which owned and a steel pipe manufacturing facility at the WWII Assembly building area, first as Beall Pipe and Tank Co and then on its own. These operations were in the Assembly Building area of



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the Oregon Shipbuilding site from 1950 through 1982 for a period of time nearly as long as Northwest Pipe has been at that location and during time when environmental standards were far less protective. This is a significant time period for waste generation and disposal to occur at the property. Northwest Pipe's position is based on documents submitted in response to EPA's requests for information under section 104(e).

In addition, Northwest Pipe submits Exhibit A, comprised of certain pages from the initial public offering statement, or Form S-1 by L.B. Foster Company filed 4/30/1981. This filing shows that:

1. L.B. Foster consolidated the financial information of all its subsidiaries, one of which was Beall Pipe and Tank Corporation. The latter was 100% owned by L.B. Foster. (Pg. 9 Selected Financial Data; Pg. 149, Schedule 1)
2. L.B. Foster owned the approximately 25-acre site in Portland, Oregon where, through Beall Pipe and Tank Company, they operated a pipe manufacturing facility involving manufacturing, pipe coating and wrapping, and yard storage. (Pg 16 PROPERTIES)

The consequence of EPA's failure is that others are forced to chase this PRP rather than having it participate in the post-ROD negotiations called for under EPA post-ROD procedures. This failure should be rectified prior to issuance of the ROD by EPA's issuing of a GNL and 104(e) Request to L.B. Foster Co.

8. Failure to define terms. While the term "nearshore" is used several times, there seems to be no precise definition for it. The Proposed Plan should tender a definition.

Northwest Pipe Company

By: Stephanie Heldt-Sheller

Its: Corporate Environmental Manager



Attachment A

**General Timeline**

1. **1941** – First acquisitions by the United States and its agent, Oregon Shipbuilding.
2. **1949** – Adoption of the Federal Property and Administrative Services Act (changes to the 1944 Surplus Properties Act?) and Deed from USA.
3. **1950** – Transfer by Duliens after transfer from Surplus Properties Corporation, a Washington Corporation.
4. **1950** – First Deed to Beall Pipe & Tank Corporation.
5. **1975** – Sale of Beall family and Okura shares of Beall Pipe & Tank Corporation to L.B. Foster Co.
6. **1982** – Deed from Beall Pipe, Inc. to Multnomah Land & Equipment Company, an Oregon General Partnership.
7. **1982** – Lease from Multnomah Land and Equipment Co to Northwest Pipe and Casing Co.

**NEW REGISTRANT**

L004413

Registration No. 2- 72051

ORIGINAL  
0 02-954

**SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D. C. 20549

**FORM S-1**

**REGISTRATION STATEMENT  
UNDER**

**THE SECURITIES ACT OF 1933**

**L.B. FOSTER COMPANY**

(Exact name of Registrant as specified in charter)

**415 Holiday Drive  
Pittsburgh, Pennsylvania 15220**

(Address of principal executive offices)

**MICHAEL A. WEISS**

**Vice President and General Counsel**

**L.B. Foster Company**

**415 Holiday Drive  
Pittsburgh, Pennsylvania 15220**

(Name and address of agent for service)

**Copies to:**

**RICHARD I. BEATTIE**  
Simpson Thacher & Bartlett  
One Battery Park Plaza  
New York, New York 10004

**DONALDSON C. PILLSBURY**  
Davis Polk & Wardwell  
1 Chase Manhattan Plaza  
New York, New York 10005

**Approximate date of commencement of proposed sale to public:**

**As soon as practicable after the Registration Statement becomes effective.**

**CALCULATION OF REGISTRATION FEE**

| Title of each class of securities being registered | Amount being registered | Proposed maximum offering price per unit(1) | Proposed maximum aggregate offering price(1) | Amount of registration fee |
|--|-------------------------|---|--|----------------------------|
| Class A Common Stock, \$.01 par value .....        | 1,870,000 shares        | \$18.00                                     | \$33,660,000                                 | \$6,732                    |

(1) Estimated solely for the purpose of calculating the amount of the registration fee.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

**EXHIBIT A to NW Pipe  
Company Comment to EPA**

**THE INDEX TO THE EXHIBIT VOL.  
IS ON PAGE 57**

**1 OF  
1134**

# L.B. FOSTER COMPANY

## Cross-Reference Sheet Pursuant to Rule 404(c)

| <u>Item Number and Heading</u>  | <u>Prospectus Heading</u>   |
|---|---|
| 1. Distribution Spread .....  | Cover Page  |
| 2. Plan of Distribution .....   | Cover Page; Underwriting  |
| 3. Use of Proceeds to Registrant .....  | Summary; Use of Proceeds;<br>Description of Recapitalization  |
| 4. Sales Otherwise than for Cash .....  | Inapplicable  |
| 5. Capital Structure .....  | Capitalization  |
| 6. Selected Financial Data; Management's Discussion and<br>Analysis of Financial Condition and Results of Operations .. | Selected Financial Data;<br>Management's Discussion and<br>Analysis of Financial Condition<br>and Results of Operations |
| 7. Organization of Registrant .....   | The Company; Description of<br>Recapitalization   |
| 8. Parents of Registrant .....  | Principal Stockholders  |
| 9. Description of Business .....  | The Company; Business; Index to<br>Consolidated Financial<br>Statements   |
| 10. Properties .....  | Properties  |
| 11. Organization Within 5 Years .....   | Dilution; Management—Certain<br>Transactions  |
| 12. Legal Proceedings .....   | Business—Litigation   |
| 13. Capital Stock Being Registered .....  | Cover Page; Summary—<br>The Offering; Description<br>of Capital Stock   |
| 14. Long-Term Debt Being Registered .....   | Inapplicable  |
| 15. Other Securities Being Registered .....   | Inapplicable  |
| 16. Directors and Executive Officers .....  | Management  |
| 17. Management Remuneration and Transactions .....  | Management—Remuneration<br>of Directors and Officers;<br>Management—Certain<br>Transactions                             |
| 18. Security Ownership of Certain Beneficial Holders and<br>Management .....  | Principal Stockholders  |
| 19. Financial Statements and Supplementary Data .....   | Index to Consolidated Financial<br>Statements   |
| 20. Brokerage Allocation .....  | Inapplicable  |



## SUMMARY

### The Company

L.B. Foster Company is a leading finisher and supplier of oil country tubular goods, which involves the upsetting, threading and testing of tubing, the threading and testing of casing and the production of couplings. The Company also manufactures and supplies other tubular products for sale to the energy related, construction, water and gas transmission and marine industries. In addition, the Company manufactures and supplies rail products for industrial and railroad use and a variety of products for use in the construction industry.

### Summary of Operating Results

(in thousands except per share amounts)

|                            | Year Ended December 31, |            |            | Three Months Ended March 31, |            |
|----------------------------|-------------------------|------------|------------|------------------------------|------------|
|                            | 1978                    | 1979       | 1980       | 1980                         | 1981       |
|                            | (Unaudited)             |            |            |                              |            |
| Net sales and rentals      | \$ 306,755              | \$ 365,063 | \$ 430,625 | \$ 99,039                    | \$ 120,648 |
| Income before income taxes | 14,266                  | 9,187      | 20,729     | 3,913                        | 8,109      |
| Net income                 | 8,358                   | 6,122      | 12,229     | 2,251                        | 4,620      |
| Earnings per share         |                         |            |            |                              |            |
| Primary                    | 1.64                    | 1.16       | 2.56       | .44                          | 1.00       |
| Fully diluted              | .97                     | .69        | 1.48       | .26                          | .57        |

### Summary Balance Sheet as of March 31, 1981 (Unaudited)

(in thousands)

|                                     | Actual     | As Adjusted* |                            | Actual     | As Adjusted* |
|-------------------------------------|------------|--------------|----------------------------|------------|--------------|
| Current assets                      | \$ 151,929 | \$ 165,964   | Current liabilities        | \$ 65,278  | \$ 65,278    |
| Property, plant and equipment (net) | 36,606     | 36,606       | Long-term debt             | 74,604     | 64,484       |
| Other assets                        | 2,430      | 2,430        | Deferred credits           | 6,718      | 6,718        |
|                                     |            |              | Redeemable preferred stock | 9,868      | 3,719        |
|                                     |            |              | Stockholders' equity       | 34,497     | 64,801       |
| Total                               | \$ 190,965 | \$ 205,000   | Total                      | \$ 190,965 | \$ 205,000   |

\* Adjusted to reflect (a) conversion of all Class B Preferred Stock into Common Stock and (b) issuance of 1,700,000 shares offered hereby and application of the net proceeds (assumed to be \$27,540,000) as described herein.

### The Offering

|   |  |
|---|--|
| Shares offered hereby                                       | 1,700,000 shares of Class A Common Stock*  |
| Shares of Common Stock to be outstanding after the offering | 9,593,991 shares*  |
| Use of net proceeds   | Reduction of bank debt, partial redemption of Class A Preferred Stock and general corporate purposes |

\* Does not include 170,000 shares subject to an over-allotment option granted to the Underwriters by the Company.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE CLASS A COMMON STOCK AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

## THE COMPANY

L.B. Foster Company is a leading finisher and supplier of oil country tubular goods, which involves the upsetting, threading and testing of tubing, the threading and testing of casing and the production of couplings. The Company also manufactures and supplies other tubular products, including Fosterweld<sup>®</sup> spiralweld pipe, for sale to the energy related, construction, water and gas transmission and marine industries. In addition, the Company manufactures and supplies rail products for industrial and railroad use and a variety of products for use in the construction industry. The Company's products and services are generally available throughout the United States.

Set forth below are the contributions to net sales and rentals and to operating profit of each of the Company's business segments in 1980 (dollar amounts in thousands).

|                             | Net Sales and Rentals |               | Operating Profit* |               |
|-----------------------------|-----------------------|---------------|-------------------|---------------|
| Tubular products .....      | \$ 290,943            | 67.5%         | \$ 22,503         | 60.1%         |
| Rail products .....         | 79,046                | 18.4          | 8,903             | 23.8          |
| Construction products ..... | 60,636                | 14.1          | 6,043             | 16.1          |
| Total .....                 | <u>\$ 430,625</u>     | <u>100.0%</u> | <u>\$ 37,449</u>  | <u>100.0%</u> |

\* Income before gain or loss on the sale of property, plant and equipment, general corporate expense, unallocated other income and expense, interest expense and income taxes.

The Company's predecessor was founded in 1902, incorporated in 1918 and its business purchased by the Company in 1977. The Company, a Delaware corporation, was organized, in 1977 by a group of investors for the purpose of acquiring this business. Originally founded to distribute railroad rail and rail accessories, the Company has evolved to become a supplier, finisher and manufacturer of a wide variety of tubular, rail and construction products.

The Company's executive offices are located at 415 Holiday Drive, Pittsburgh, Pennsylvania 15220, telephone (412) 928-3400. The terms "L.B. Foster" and the "Company" refer to L.B. Foster Company and its subsidiaries or its predecessor, as the context requires.

## USE OF PROCEEDS

The net proceeds to the Company from the sale of the Class A Common Stock offered hereby are estimated at \$ \_\_\_\_\_ (\$ \_\_\_\_\_ if the Underwriters' over-allotment option is fully exercised). Such proceeds will be used to retire all bank debt outstanding under the Company's Revolving Credit Agreement (the "Credit Agreement"), to redeem \$3,718,400 of the Company's outstanding Class A Preferred Stock and for general corporate purposes. As of March 31, 1981, \$10,120,000 was outstanding under the Credit Agreement. Substantially all of this amount was borrowed during the past 12 months and used by the Company for working capital purposes.

## DILUTION

The following table sets forth certain information concerning the net tangible book value (i.e., the difference between the book value of the Company's tangible assets and the Company's liabilities) of the shares of the Company's Class A and Class B Common Stock (collectively, the "Common Stock"), based upon the shares of such stock outstanding (on a fully converted basis) on March 31, 1981.



## SELECTED FINANCIAL DATA

The following tables summarize selected financial data for the Company and its subsidiaries and are qualified in their entirety by the more detailed financial statements included elsewhere in this Prospectus. Insofar as this information relates to each of the three years in the period ended December 31, 1980, it is derived from consolidated financial statements examined by Deloitte Haskins & Sells, independent certified public accountants, whose opinion with respect thereto appears elsewhere in this Prospectus. The information for the period ended December 31, 1977 is derived from consolidated financial statements examined by Main Hurdman & Cranstoun, independent certified public accountants. The information for the three-month periods ended March 31, 1980 and 1981 is unaudited but, in the opinion of management of the Company, includes all adjustments (consisting only of normal recurring accruals) necessary for a fair presentation of the data. Interim results are not necessarily indicative of results for an entire year.

### Selected Income Statement Data (in thousands, except per share)

|                                     | August 18<br>to<br>December 31,<br>1977 (1) | Year Ended December 31, |           |           | Three Months Ended<br>March 31, |           |
|-------------------------------------|---|-------------------------|-----------|-----------|---------------------------------|-----------|
|                                     |   | 1978                    | 1979      | 1980      | 1980                            | 1981      |
|                                     |   |                         |           |           | (Unaudited)                     |           |
| Net sales and rentals               | \$ 94,619                                   | \$306,755               | \$365,063 | \$430,625 | \$ 99,039                       | \$120,648 |
| Gross profit                        | 14,102                                      | 52,617                  | 52,106    | 69,761    | 15,164                          | 21,166    |
| Selling and administrative expenses | 9,341                                       | 29,710                  | 34,172    | 41,095    | 9,427                           | 10,973    |
| Other expense (income)              | (215)                                       | 8,641                   | 8,747     | 7,937     | 1,824                           | 2,084     |
| Income before income taxes          | 4,976                                       | 14,266                  | 9,187     | 20,729    | 3,913                           | 8,109     |
| Net income                          | 3,165                                       | 8,358                   | 6,122     | 12,229    | 2,251                           | 4,620     |
| Earnings per share (2)              |   |                         |           |           |                                 |           |
| Primary                             | .62   | 1.64                    | 1.16      | 2.56      | .44                             | 1.00      |
| Fully diluted                       | .37   | .97                     | .69       | 1.48      | .26                             | .57       |

### Selected Balance Sheet Data (in thousands)

|                            | December 31, |           |           |           | March 31,   |           |
|----------------------------|--------------|-----------|-----------|-----------|-------------|-----------|
|                            | 1977         | 1978      | 1979      | 1980      | 1980        | 1981      |
|                            |              |           |           |           | (Unaudited) |           |
| Working capital            | \$ 72,857    | \$ 80,614 | \$ 81,557 | \$ 77,356 | \$ 79,911   | \$ 86,651 |
| Total assets               | 133,665      | 161,809   | 157,204   | 174,284   | 154,641     | 190,965   |
| Long-term debt             | 77,531       | 83,291    | 82,894    | 68,990    | 79,234      | 74,604    |
| Redeemable preferred stock | 9,914        | 9,914     | 9,914     | 9,868     | 9,896       | 9,868     |
| Stockholders' equity       | 6,159        | 13,724    | 19,113    | 30,071    | 21,252      | 34,497    |

- (1) As of the close of business August 17, 1977, the Company acquired substantially all the assets of its predecessor, The L.B. Foster Company. 1977 amounts represent the results of operations from August 18, 1977 (the date the Company purchased the business) to December 31, 1977. Results of operations or other financial information of the predecessor have not been included because management of the Company believes that the information is not comparable and therefore could be misleading.
- (2) See Note 17 of the Notes to Consolidated Financial Statements for the effect of the recapitalization described herein on future computations of earnings per share.

## BUSINESS

L.B. Foster finishes, supplies and manufactures tubular products used primarily for oil and gas drilling and transmission, refinery, petrochemical plant and power plant construction, water transmission and other construction purposes, and rail products used primarily by industrial, railroad and mining operations. The Company also distributes, manufactures and rents other products for the construction industry.

The following table provides information with respect to the net sales and rentals and the operating profit of each of the Company's business segments: tubular products, rail products and construction products:

| (in thousands)        | Year Ended December 31, |                   |                   | Three Months Ended March 31, |                   |
|-----------------------|-------------------------|-------------------|-------------------|------------------------------|-------------------|
|                       | 1978                    | 1979              | 1980              | 1980                         | 1981              |
|                       |                         |                   |                   | (Unaudited)                  |                   |
| Net sales and rentals |                         |                   |                   |                              |                   |
| Tubular products      | \$ 189,601              | \$ 239,473        | \$ 290,943        | \$ 59,135                    | \$ 85,998         |
| Rail products         | 61,840                  | 70,323            | 79,046            | 25,602                       | 21,654            |
| Construction products | 55,314                  | 55,267            | 60,636            | 14,302                       | 12,996            |
| Total                 | <u>\$ 306,755</u>       | <u>\$ 365,063</u> | <u>\$ 430,625</u> | <u>\$ 99,039</u>             | <u>\$ 120,648</u> |
| Operating profit*     |                         |                   |                   |                              |                   |
| Tubular products      | \$ 16,726               | \$ 9,902          | \$ 22,503         | \$ 4,234                     | \$ 9,463          |
| Rail products         | 7,413                   | 9,492             | 8,903             | 2,292                        | 2,065             |
| Construction products | 5,453                   | 5,159             | 6,043             | 1,217                        | 2,053             |
| Total                 | <u>\$ 29,592</u>        | <u>\$ 24,553</u>  | <u>\$ 37,449</u>  | <u>\$ 7,743</u>              | <u>\$ 13,581</u>  |

\* Income before gain or loss on the sale of property, plant and equipment, general corporate expense, unallocated other income and expense, interest expense and income taxes.

### Tubular Products

L.B. Foster is engaged in the finishing, distribution and manufacture of three principal categories of tubular products: oil country tubular goods, line, structural and standard pipe and Fosterweld® spiralweld pipe. Generally, the Company adds value to purchased tubular products by preparing them to meet customer specifications using various fabricating processes, including the end finishing of oil country tubular goods and the welding, coating, wrapping and lining of other pipe products.

**Oil Country Tubular Goods.** Oil country tubular goods consist of casing and tubing used in the drilling and completion of oil and gas wells. Casing is pipe used to seal off fluids from the bore hole of oil and gas wells and to prevent the hole from caving. After casing is set, a string of tubing is generally inserted into the well to serve as a conduit through which oil or gas is extracted. Tubular products must be end finished in order to be used in oil and gas wells, and the Company believes it has one of the nation's largest independent capacities to end finish casing and tubing.

The Company entered the oil country tubular goods business in 1963, when it began threading casing at its Houston, Texas plant. Today, it believes it is a leading supplier of such tubular goods in the United States. The following table sets forth approximate quantities of oil country tubular goods shipped by the Company.

|                           | 1976 | 1977 | 1978 | 1979 | 1980  |
|---------------------------|------|------|------|------|-------|
| Thousands of tons shipped | 29.7 | 60.1 | 67.6 | 79.0 | 120.0 |

At Houston, Texas, Long Beach, California, and Parkersburg, West Virginia, the Company end finishes oil well casing, and at Houston the Company also upsets and threads tubing. Substantially all the couplings for these operations are manufactured at the Company's plant at Navasota, Texas, which is located approximately 70 miles northwest of Houston. The threading, coupling, manufacturing and testing operations of the Company are licensed by the American Petroleum Institute ("API").

The end finishing operation for casing consists of end facing and threading the casing, screwing on the coupling to a specified torque, drifting (i.e., testing to ensure that the casing is free of internal



obstructions and that the inside diameter is symmetrical), hydrotesting to a specified pressure and fastening a thread protector on the end opposite the coupling. These finished threads and couplings allow the casing to be joined together in the field to form continuous strings of casing.

The end finishing operation for tubing consists of upsetting both ends of the tube by a hot forging process that increases the thickness of the wall while holding the inside diameter constant. These upset ends are then machine faced and threaded. The advantage of the upset is that the ends are as strong as the body of the tubing after threading. The tubes are then drifted, coupled and hydrotested to specified pressures.

All oil casing and upset tubing processed by the Company is new material made to API specifications. The Company's capacity for casing includes the full range from 4½" through 13¾" diameter, and the Company is presently upsetting 2¾" and 2⅞" diameter tubing. Its upsetters are capable of a range through 4" diameter tubing. The Company's current annual capacity for end finishing casing and tubing is 120,000 tons, and there is virtually no unused capacity. In October 1981, the Company plans to take delivery of a new casing threading machine which will increase annual capacity by 60,000 tons and will be especially suitable for threading the high strength alloy casing used in deep wells. It will also be well suited for buttress threads which are used in deeper wells. The Company has a second machine of this same type on order for delivery in 1982, which will add another 60,000 tons capacity annually.

The Company is in the process of expanding its Navasota, Texas, coupling plant and anticipates that the plant's capacity will be approximately doubled by March 31, 1982. This additional capacity will support the expanded casing and finishing capacity described above.

Sales of oil country tubular goods are dependent upon activity of oil and gas well drilling and completion. Set forth below is information concerning the number of domestic oil and gas drilling rigs in service and the number of domestic oil and gas wells drilled.

|                                   | Year ended December 31. |        |        |        |        | Three Months Ended March 31, 1981 |
|-----------------------------------|-------------------------|--------|--------|--------|--------|-----------------------------------|
|                                   | 1976                    | 1977   | 1978   | 1979   | 1980   |                                   |
| Average number of rigs in service | 1,658                   | 2,001  | 2,259  | 2,177  | 2,910  | 3,656                             |
| Number of wells completed         | 41,455                  | 46,479 | 48,513 | 51,263 | 64,628 | Not Available                     |

Source: *The Oil and Gas Journal*.

There can be no assurance that the recent increased level of drilling activity will continue in the future.

**Line and Standard Pipe.** L.B. Foster is one of the nation's largest independent distributors of pipe, including line pipe as well as standard and structural grade pipe. Line pipe is used for oil and gas transmission and refinery, petrochemical plant and power plant construction, as well as water transmission. Structural pipe is used in a variety of other construction and industrial applications. Although the Company manufactures a portion of the pipe it sells, it also purchases a portion of these products directly from steel mills. The Company applies protective coatings and wrappings to the exterior of the pipe and linings to the interior of the pipe for various transmission applications.

**Manufactured Pipe.** L.B. Foster produces Fosterweld® spiralweld pipe, its principal manufactured pipe product, by converting purchased steel coils into pipe in continuous forming mills. Fosterweld® pipe can be produced in sizes up to 144" in diameter and 100 feet or more in length for use in water transmission lines, penstocks and slurry lines for transporting solids such as phosphate rock and coal. Fosterweld® pipe also has a wide variety of other applications such as dredge pipe, pneumatic lines, ventilation pipe, foundation piling and caissons.

To increase its capacity to manufacture spiralweld pipe, the Company expanded its Parkersburg, West Virginia, plant during 1980 and is presently expanding its Savannah, Georgia, plant. Fosterweld® pipe is also produced at Tampa, Florida, and at Portland, Oregon, for irrigation, water well and agricultural applications.

vision in which they reside. Plaintiffs in each suit seek unspecified damages in excess of \$5,000 and a permanent injunction against certain activities of the Company between the hours of 9:00 P.M. and 7:00 A.M. If the Company were enjoined from carrying out such activities during these hours, the Company's production level, particularly in oil country tubular goods, could be adversely affected. The Company believes that it has meritorious defenses available to it in these actions.

## PROPERTIES

The location and general description of the principal properties which are owned or leased by L.B. Foster Company, together with an indication of the segment of the Company's business using the properties, are as set forth in the following table:

| <u>Location</u>                  | <u>Function</u>  | <u>Acres</u> | <u>Business Segment</u> | <u>Lease Expires</u> |
|----------------------------------|--|--------------|-------------------------|----------------------|
| Hayward, California .....        | Yard storage. Divisional Office.   | 8            | All                     | 1984*                |
| Pueblo, Colorado .....           | Yard storage.  | 15           | All                     | 1982                 |
| Tampa, Florida .....             | Fosterweld® pipe manufacturing. Yard storage.                                    | 20           | All                     | 1983                 |
| Doraville, Georgia .....         | Pipe coating and wrapping. Yard storage. Regional Office.                        | 28           | All                     | 1983*                |
| Savannah, Georgia .....          | Fosterweld® pipe manufacturing. Yard storage.                                    | 17           | All                     | 1985                 |
| Bedford Park, Illinois .....     | Yard storage.  | 17           | All                     | 1982*                |
| Winslow, Indiana .....           | Wood tie preparation and treatment.  | 35           | Rail                    | 1985                 |
| Marrero, Louisiana .....         | Yard storage.  | 18           | All                     | Owned                |
| Hightstown, New Jersey .....     | Yard storage.  | 33           | All                     | 1981*                |
| Norwood, Ohio .....              | Rail accessory manufacturing. Yard storage.                                      | 8            | Rail                    | Owned                |
| Portland, Oregon .....           | Fosterweld® and ERW pipe manufacturing. Pipe coating and wrapping. Yard storage. | 25           | Tubular                 | Owned                |
| Pittsburgh, Pennsylvania .....   | Corporate Headquarters.  | —            | Corporate               | 1986**               |
| Houston, Texas .....             | Casing, upset tubing, threading, heat treating and painting. Yard storage.       | 95           | All                     | 1981*                |
| Houston, Texas .....             | Casing, upset tubing, threading, heat treating and painting. Yard storage.       | 12           | All                     | Owned                |
| Houston, Texas .....             | Pipe coating and wrapping. Yard storage.   | 14           | Tubular                 | 1981                 |
| Navasota, Texas .....            | Coupling manufacturing. Yard storage.  | 20           | Tubular                 | 1986                 |
| Parkersburg, West Virginia ..... | Fosterweld® pipe manufacturing. Pipe coating and wrapping. Yard storage.         | 140          | All                     | 1990                 |
| Parkersburg, West Virginia ..    | Pipe threading. Yard storage.  | 13           | Tubular                 | 1985                 |

\* Leased from Fosco Employees Trust. See "Management—Certain Transactions".

\*\* Leased from Greentree Building Associates. See "Management—Certain Transactions".

In addition to the properties listed above, the Company has 31 district sales offices located throughout the country and warehouse facilities in 6 states. The Company's facilities are in good condition and the Company believes that its production facilities are adequate for its present and foreseeable requirements.

## MANAGEMENT

### Directors and Officers

The directors and executive officers of the Company are listed below and brief summaries of their business experience and certain other information with respect to them are set forth following the table.



REVOLVING CREDIT  
AND  
TERM LOAN AGREEMENT

Dated as of August 15, 1977

Between

LBF ACQUISITION CORPORATION  
[name to be changed to L. B. Foster Company]

And

MELLON BANK, N.A.  
THE FIRST NATIONAL BANK OF CHICAGO  
MANUFACTURERS HANOVER TRUST COMPANY  
CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO  
TEXAS COMMERCE BANK NATIONAL ASSOCIATION

## REVOLVING CREDIT AND TERM LOAN AGREEMENT

THIS AGREEMENT, dated as of August 15, 1977, between LBF ACQUISITION CORPORATION, a Delaware corporation whose name is to be changed to L. B. Foster Company (hereinafter called the "Company") and the Banks named in Section 2 hereof (each hereinafter called a "Bank" and collectively called the "Banks"),

### WITNESSETH THAT:

WHEREAS, the Company has requested the Banks to extend credit to the Company in order to enable it to borrow at any time or from time to time on or before August 1, 1980 not in excess of \$22,000,000 aggregate principal amount at any time outstanding, and the Banks are willing to extend such credit to the Company on the terms and conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto, in consideration of their mutual covenants hereinafter set forth and intending to be legally bound hereby, agree as follows:

**Section 1. Certain Definitions.** In addition to words and terms defined elsewhere in this Agreement, the following words and terms as used herein shall have the following meanings, respectively, unless the context hereof clearly requires otherwise:

(a) "Acquisition Agreements" shall mean, collectively, (i) the Foster Agreement and (ii) the Purchase Agreements and the Securities, together with (w) Article FOURTH of the Amended Certificate of Incorporation (as hereinafter defined), (x) the Contingent Income Agreements, (y) the Offset Sharing Agreement and (z) the separate purchase agreement referred to in paragraph 3M of the Purchase Agreements, in each case as contemplated by the Purchase Agreements to be in effect at the time of the issuance and delivery by the Company of the Securities and as amended from time to time pursuant to the terms thereof.

(b) "Affiliate" shall mean with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person.

(c) "Agreement" shall mean this Revolving Credit and Term Loan Agreement as the same may from time to time be supplemented or amended.

(d) "Beall Agreement" shall mean the agreement, dated as of August 15, 1977, between the Company and Foster obligating the Company to pay Foster for all amounts due pursuant to the notes issued pursuant to an agreement, dated July 1, 1976, in connection with Foster's acquisition of the capital stock of Beall Pipe and Tank Corporation in the aggregate principal amount of \$4,674,486, to the extent outstanding on the date hereof.

(e) "Business Days" shall mean days other than a Saturday, Sunday or any other day on which banking institutions in the States of Illinois, New York or Texas or the Commonwealth of Pennsylvania are authorized or obligated to remain closed.

(f) "Capital Assets" shall mean any asset (other than sheet steel piling and sheet steel piling equipment) which would be classified as property, plant and equipment on a consolidated balance sheet of the Company and its Subsidiaries prepared in accordance with generally accepted accounting principles.

(g) "Certificates" shall mean the certificates of contingent income of the Company as described in paragraph 1.2 of the Purchase Agreements.

(h) "Commitment" shall mean, at any time and with respect to each Bank, the commitment of such Bank hereunder as set forth in Section 2 hereof, or as such commitment may have been reduced by termination in whole or in part under Section 4 or Section 11 hereof.

(i) "Common Stock" shall mean the Class A Common Stock (the "Class A Common Stock") and the Class B Common Stock (the "Class B Common Stock") of the Company as described in paragraphs 1.1(vi) and (vii), respectively, of the Purchase Agreements.

(j) "Consolidated Current Assets" shall mean the consolidated current assets of the Company and its Subsidiaries determined, on a consolidated basis after eliminating all inter-company items, in



accordance with generally accepted accounting principles consistently applied; *provided* that there shall not be included any loans or advances made by the Company or any Subsidiary except travel and other like advances to officers and employees in the ordinary course of business.

(k) "Consolidated Current Liabilities" shall mean the consolidated current liabilities of the Company and its Subsidiaries determined, on a consolidated basis after eliminating all inter-company items, in accordance with generally accepted accounting principles consistently applied.

(l) "Consolidated Net Earnings" for any period shall mean consolidated gross revenues of the Company and its Subsidiaries for such period less all operating and non-operating expenses of the Company and its Subsidiaries for such period, including all charges of a proper character (including deferred taxes on income to the extent required by generally accepted accounting principles, provision for taxes on unremitted foreign earnings which are included in gross revenues, and current additions to reserves), but not including in gross revenues any gains (net of expenses and taxes applicable thereto) in excess of losses resulting from the sale, conversion or other disposition of Capital Assets, any gains resulting from the write-up of assets, any equity of the Company or any Subsidiary in the undistributed earnings of any corporation which is not a Subsidiary, or any earnings of any corporation acquired by the Company or any Subsidiary through purchase, merger or consolidation or otherwise for any year prior to the year of acquisition or any equity in any Subsidiary at the date of acquisition over the cost of investment in such Subsidiary; in each case, except as otherwise contemplated above, determined in accordance with generally accepted accounting principles consistently applied.

(m) "Consolidated Tangible Net Worth" shall mean the consolidated total assets of the Company and its Subsidiaries, exclusive of intangible assets such as goodwill, organization expense, trademarks, trade names, brand names, copyrights, patents, patent applications, licenses, franchises, permits and rights with respect to the foregoing, experimental expense and unamortized discount and expense and any other items which are treated as intangibles under generally accepted accounting principles consistently applied, minus the consolidated total liabilities (including without limitation subordinated indebtedness) of the Company and its Subsidiaries, all as determined in accordance with generally accepted accounting principles consistently applied; *provided* that for purposes of this Agreement, organization expense and unamortized discount and expense arising out of the acquisition by the Company of the assets of Foster pursuant to the Foster Agreement and the separate purchase agreement referred to in paragraph 3M of the Purchase Agreements shall not be included as intangible assets.

(n) "Consolidated Working Capital" shall mean the excess of Consolidated Current Assets over Consolidated Current Liabilities.

(o) "Contingent Income Agreements" shall mean, collectively, the agreements (in the form of Exhibit D to the Purchase Agreements) between the Company and the purchasers of the Senior Notes and the Senior Subordinated Notes.


(p) "Current Debt" shall mean any obligation for borrowed money (and any notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money) payable on demand or within a period of one year from the date of the creation thereof; *provided* that any obligation shall be treated as Funded Debt, regardless of its term, if such obligation is renewable at the option of the borrower pursuant to the terms thereof or of a revolving credit or similar agreement effective for more than one year after the date of the creation of such obligation, or may be payable out of the proceeds of a similar obligation pursuant to the terms of such obligation or of any such agreement.

(q) "Debt" shall mean Funded Debt or Current Debt, as the case may be. Any obligation secured by a Lien on, or payable out of the proceeds of production from, property of the Company or any Subsidiary shall be deemed to be Funded or Current Debt, as the case may be, of the Company or such Subsidiary even though such obligation shall not be assumed by the Company or such Subsidiary.

(r) "Default" shall mean any of the events specified in Section 11 hereof, whether or not any requirement for the giving of notice or the lapse of time or the happening of any further event, condition or act shall have been satisfied.



(s) "Disclosure Exhibits" shall mean the Disclosure Exhibits attached to the Foster Agreement, initialed for purposes of identification by an officer of the Company.

(t) "Domestic Subsidiary" shall mean any corporation organized under the laws of any State of the United States of America, or any Province of Canada, which conducts the major portion of its business in the United States of America or Canada, and all of the stock of every class of which, except directors' qualifying shares, shall, at the time as of which any determination is being made, be owned by the Company either directly or through one or more Domestic Subsidiaries. 

(u) "Event of Default" shall mean any of the events specified in Section 11 hereof; *provided* that there has been satisfied any requirement in connection with such event for the giving of notice, the lapse of time or the happening of any further event, condition or act.

(v) "Foreign Subsidiary" shall mean any corporation other than a Domestic Subsidiary, all of the stock or other ownership interests of every class of which, except for directors' qualifying shares, shall, at the time as of which any determination is being made, be owned by the Company either directly or through one or more Subsidiaries.

(w) "Foster" shall mean The L. B. Foster Company, a Pennsylvania corporation.

(x) "Foster Agreement" shall mean the agreement, dated as of August 15, 1977, between the Company and Foster, as the same may be amended from time to time after the date hereof.

(y) "Funded Debt" shall mean any obligation payable more than one year from the date of the creation thereof, which under generally accepted accounting principles is shown on the balance sheet as a liability (excluding reserves for deferred income taxes and other reserves to the extent that such reserves do not constitute an obligation).

(z) "Hydro-Ash Agreement" shall mean the agreement, dated February 26, 1976, covering Foster's acquisition of the capital stock of Hydro-Ash Corporation, pursuant to which Foster is obligated to pay and to cause such corporation to pay the previous owner of such corporation an aggregate amount of \$257,000, as such agreement and obligations are assumed by the Company pursuant to the Foster Agreement.

(aa) "Junior Subordinated Note" shall mean any note or notes which may be issued pursuant to the Foster Agreement as in effect on the date hereof.

(bb) "Lien" shall mean any mortgage, pledge, security interest, encumbrance, lien or charge of any kind, including any conditional sale or other title retention agreement, any lease in the nature thereof, and the filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction.

(cc) "Note" or "Notes" shall mean one or more, as the case may be, of the Revolving Credit Notes and the Term Notes of the Company, as defined in Section 3 and 5 hereof, respectively, executed and delivered under this Agreement.

(dd) "Officer's Certificate" shall mean a certificate signed in the name of the Company by its President, one of its Vice Presidents, or its chief financial officer (or, if the Company has no chief financial officer, its Controller), which certificate shall state (i) that the individual signing the same has made or caused to be made such investigations as are necessary in order to permit him to verify the accuracy of the information set forth therein and (ii) that to the best of such individual's knowledge, the certificate does not misstate any fact or omit to state any fact necessary to make the certificate not misleading.

(ee) "Offset Sharing Agreement" shall mean the agreement so entitled (in the form of Exhibit E to the Purchase Agreements) among the Banks and the purchasers of the Senior Notes.

(ff) "Person" shall mean and include an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

(gg) "Preferred Stock" shall mean, collectively, the 8% Senior Cumulative Preferred Stock (the "Class A Preferred Stock"), the 8% Junior Cumulative Convertible Preferred Stock—Series 1 (the "Series 1 Class B Preferred Stock") and the 8% Junior Cumulative Convertible Preferred Stock—



ment having been given by the Company as aforesaid, the principal amount of the Notes specified in such notice, together with interest accrued and unpaid on the amount of such prepayment to the date of prepayment, shall become due and payable on such prepayment date.

All payments and prepayments made in accordance with the provisions of this Agreement or of the Notes in respect of commitment fee or of principal and interest on the Notes shall be made ratably to each Bank in immediately available funds at the office of such Bank specified in Section 2 hereof, in accordance with each Bank's proportionate share of all loans then outstanding hereunder.

**Section 7. Representations and Warranties.** The Company represents and warrants to each Bank that:

(a) *Organization and Qualification.* The Company and BPT Acquisition Corporation, a Delaware corporation ("BPT"), which shall be the only Subsidiary until the acquisition of the assets of Foster pursuant to the Foster Agreement, are corporations duly organized and existing in good standing under the laws of the State of Delaware, have the corporate power to own their respective properties and to carry on their respective businesses as now being conducted and as proposed to be conducted. The Company is duly qualified as a foreign corporation to do business and in good standing in each of the jurisdictions listed in Disclosure Exhibit A, and the Company has not failed to qualify in any other jurisdiction in which the nature of the business to be conducted by it (immediately after giving effect to the acquisition of the assets of Foster pursuant to the Foster Agreement and the separate purchase agreement referred to in paragraph 3M of the Purchase Agreements, respectively) makes such qualification necessary. BPT and each corporation which will become a Subsidiary as a result of the acquisition of the assets of Foster pursuant to the Foster Agreement and the separate purchase agreement referred to in paragraph 3M of the Purchase Agreements is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business to be conducted by it (immediately after giving effect to the acquisition of the assets of Foster pursuant to the Foster Agreement and the separate purchase agreement referred to in paragraph 3M of the Purchase Agreements, respectively) makes such qualification necessary.

(b) *Power and Authority.* The Company has corporate power and authority to execute, deliver and carry out the provisions of this Agreement, to make the borrowings provided for herein, to execute and deliver the Notes in evidence of such borrowings and to perform its obligations hereunder and under the Notes, and all such action has been duly authorized by all necessary corporate proceedings on its part. This Agreement has been duly and validly executed and delivered by the Company and constitutes a legal, valid and binding contract of the Company, enforceable in accordance with its terms, and the Notes and all other instruments and documents, when duly executed and delivered pursuant to the provisions hereof or thereof, will constitute legal, valid and binding obligations of the Company enforceable in accordance with the terms thereof and of this Agreement, except as the enforceability of this Agreement or the Notes may be limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights.

(c) *Corporations Becoming Subsidiaries as a Result of the Acquisition of the Assets of Foster.* Schedule 1 attached hereto correctly sets forth, as to each corporation which will become a Subsidiary as a result of the acquisition of the assets of Foster pursuant to the Foster Agreement, its name, the jurisdiction of its incorporation, the percentage of each class of capital stock outstanding which will, as a result of such acquisition, be owned by the Company or a Subsidiary, the name of such owner and which of such corporations are inactive. Each such corporation is duly organized and existing in good standing under the laws of the jurisdiction in which incorporated, has the requisite corporate power to own, operate and lease its respective properties and to carry on its respective business as now being conducted and is duly qualified as a foreign corporation to do business and, except as described in Schedule 1, is in good standing in every jurisdiction in which the nature of the business conducted by it makes such qualification necessary. All of the outstanding shares of capital stock of each such corporation have been validly issued and are fully paid and nonassessable, and all such outstanding shares indicated in Schedule 1 to be owned by the Company and its Subsidiaries after such acquisition will be so owned, free of any lien, pledge, charge, security interest or other encumbrance, except as set forth in Schedule 1.



State of Delaware; except as so amended and as may be further amended to change the name of the Company to L. B. Foster Company, such Certificate of Incorporation shall not have been amended or modified; and the Company shall have delivered to each Bank an Officer's Certificate, dated the date of making the first loans under Section 2 hereof, to all such effects.

(f) *Purchases of Stock.* At the time of making the first loans under Section 2 hereof, the Company shall have issued and sold, (i) pursuant to Preferred Stock Subscription Agreements, dated as of the date hereof, 1,990 shares of Class A Preferred Stock to certain officers and employees of Foster who it is anticipated will become executive officers of the Company; (ii) pursuant to Common Stock Subscription Agreements, dated as of the date hereof, 600,000 shares of Class A Common Stock to the persons described in the preceding clause (i); (iii) pursuant to Securities Subscription Agreements, dated as of the date hereof, an aggregate of 809 shares of Series 1 Class B Preferred Stock, 11 shares of Series 2 Class B Preferred Stock and 133,928 shares of Class A Common Stock, to certain shareholders of Foster; (iv) pursuant to Stock Purchase Agreements, dated as of the date hereof, an aggregate of 1,461,465 shares of Class A Common Stock and 104,607 shares of Class B Common Stock to two limited partnerships organized by Kohlberg, Kravis, Roberts & Co., an unrelated third party and one institution; in each case at a purchase price of \$100 per share of Preferred Stock and \$1.43 per share of Common Stock, which the Company shall have received in full, and the Company shall have delivered to each Bank evidence thereof in form and substance satisfactory to each Bank (including a complete and correct list of the names of all such persons and any information with respect thereto requested by any Bank).

(g) *Junior Subordinated Note.* At the time of making the first loans under Section 2 hereof, the Company shall have issued the Junior Subordinated Note.

(h) *Securities.* At the time of making the first loans under Section 2 hereof, the Company shall have issued and sold to each Purchaser under each of the Purchase Agreements the Securities to be purchased by such Purchaser and shall have received in full the purchase price therefor.

(i) *Contingent Income Agreements.* At the time of making the first loans under Section 2 hereof, the Company shall have duly authorized, executed and delivered the Contingent Income Agreements, and such Agreements shall be in full force and effect with no default thereunder.

(j) *Foster Agreement.* At the time of making the first loans under Section 2 hereof, the Company shall have acquired the assets of Foster pursuant to the Foster Agreement (a complete and correct copy thereof and of all schedules and exhibits thereto having been delivered to each Bank) and the Company shall have acquired good and marketable title to such assets free and clear of any Lien, except as set forth in the Foster Agreement or the Disclosure Exhibits; *provided* that assets of Foster located in Canada will not have been acquired by the Company at the date of such first loans. Prior to the date of such first loans, such assets will be transferred by Foster to a newly created wholly-owned Delaware subsidiary of Foster. Concurrently with such first loans, pursuant to a separate purchase agreement between the Company and Foster, the shares of stock of such subsidiary, together with the cash to be used by the Company to purchase such stock, will be deposited in escrow until (i) approval of the acquisition by the Company of such stock shall have been obtained under the Canadian Foreign Investment Review Act and (ii) other normal closing conditions which the Company has no reason to believe cannot be met shall have been satisfied. At the time of making such first loans, each Bank shall have received an Officer's Certificate to the effect that the Company has no reason to believe that such approval shall not be forthcoming and such other conditions met within a reasonable time.

(k) *Offset Sharing Agreement.* The Offset Sharing Agreement shall have been entered into by the Purchasers of the Senior Notes under the Purchase Agreements and by the Banks.

(l) *Supplemental Opinion.* At the time of making the loans under Section 5 hereof, there shall have been delivered to each Bank from counsel for the Company, which counsel shall not be unsatisfactory to any Bank, an opinion in form and substance satisfactory to each Bank, supplementary to the opinion described in Section 8(c) hereof, stating those changes, if any, which have occurred in the opinions therein set forth.



**SCHEDULE 1**

**SCHEDULE OF CORPORATIONS WHICH WILL BECOME SUBSIDIARIES  
AS A RESULT OF THE ACQUISITION BY THE COMPANY  
OF THE ASSETS OF FOSTER  
PURSUANT TO THE FOSTER AGREEMENT**

| <u>Name</u>                              | <u>Jurisdiction<br/>of<br/>Incorporation</u> | <u>Percentage of<br/>Outstanding<br/>Stock to be Owned</u> | <u>Corporation<br/>to Own<br/>Outstanding<br/>Stock</u> |
|--|--|--|---|
| Beall Pipe and Tank Corporation . . . .  | Oregon                                       | 100  | BPT Acquisition Corporation ←                           |
| Hydro-Ash Corporation . . . . .          | Illinois                                     | 100  | LBF Acquisition Corporation                             |
| Southern Pipe Coating Corporation* . . . | Delaware                                     | 100  | LBF Acquisition Corporation                             |
| Houston Pipe Coating Corporation* . . .  | Texas  | 100  | LBF Acquisition Corporation                             |

\* Name-holding corporation which conducts no business.